Free Speech in the Shadow of War by Joe Allen

(The Minneapolis Defendants, 1941)

THE MAJOR powers of the world were at war in June 1941, with the sole exception of the United States. Nazi Germany had already occupied much of Europe when it launched a massive and devastating invasion of Russia on June 22, destroying much of the Red Army and laying waste to the country's western provinces.

Four days later, Harold Ickes, President Franklin Roosevelt's sometimes controversial secretary of the Interior, spoke at a dinner on the night of June 26 in Hartford, Ct., sponsored by the Committee to Defend America by Aiding the Allies, and declared to the rapt audience that the American people must "make their supreme choice."

Ickes was impatient. "This is a war for liberty," Ickes declared. Ickes was speaking six months before the Japanese attack on Pearl Harbor

and the United States' formal entry into the Second World War, but everyone knew that it was just a matter of time before the U.S. would enter the fighting.

Ickes spoke as if the U.S. was already a combatant, "If we win it, we may live, but at any rate we will pass on to our children, undamaged, the great heritage that has come to us from our fathers."

He finished his speech with a hysterical flourish, "If--God forbid!--we lose the war, some of us may live, but those who do would be much better dead."

THE FOLLOWING day, at approximately 3 p.m., FBI agent Thomas Perrin parked his car outside of 919 Marquette Ave. in downtown Minneapolis, Minn.--the address of the local office of the Socialist Workers Party (SWP). It's doubtful that liberty was on Perrin's mind when he climbed the stairs to the second floor and entered the SWP's Labor Book Store. A deputy U.S. Marshal accompanied Perrin and both dressed in plain street clothes.

The second floor of 919 Marquette Ave. was well known to a wide variety of people in the Twin Cities--from radical workers and students, to company spies and the local police. The FBI had put the office and many of the party's leaders under surveillance the previous year.

The Roosevelt administration had given the FBI expanded authority and resources to track and arrest "subversives." FBI Director J. Edgar Hoover eagerly expanded his empire, employing thousands of new agents and personnel. Perrin was one of these newly minted "special agents," a title with which Hoover ordained his men. Perrin had been a special agent for little over a month when he was assigned to the Minneapolis office of the FBI at the beginning of 1941.

Perrin's mission that day was to purchase a handful of books and pamphlets that would provide "reasonable grounds" for a search warrant. According to a prearranged plan, after obtaining the search warrant, the SWP's offices in the Twin Cities would to raided by the FBI and U.S. Marshals.

Perrin walked through the door and immediately came face-to-face with Grace Carlson. Born in November 1906, Carlson, by the time of Perrin's visit, was a familiar face in the Minneapolis radical and trade union movements. The previous year she had run for the U.S. Senate as an independent antiwar candidate, receiving nearly 9,000 votes--a larger number of votes than the much bigger Communist Party (CP) in the 1940 elections.

Carlson was also the state organizer of the SWP. Her duties included staffing the office and bookstore, which was a reasonably busy place especially on weekends, and she took no special notice of two strangers who came in on a Friday afternoon. Perrin and the deputy milled around the store looking at pamphlets and books.

Perrin later testified,

> In the north end of the room there was another bookcase. Several larger volumes were in this bookcase, together with some pamphlets. We viewed the various books in the room and over in the--I believe it would be the northeast corner of the room there was another table on which were pilled issues of *The Militant*, the *Socialist Appeal*, the *Northwest Organizer*, and perhaps a few other newspapers.

With such a large and varied display of literature before him, Perrin had to make a quick decision on what to buy. His eye's zeroed in on two pamphlets: *The Communist Manifesto* by Karl Marx and Friedrich Engels--written in 1847 and, one of the most widely distributed pieces of literature in world history--and *The Founding Conference of the Fourth International* with a forward by Max Shachtman, a former leader of the SWP, and, for many years, one of Leon Trotsky's closest collaborators.

Perrin purchased the two pamphlets and placed them in his pocket, and left the building. He and the deputy spent a total of about 10 minutes in the bookstore.

While Perrin was walking up the stairs of the 919 Marquette Ave. in Minneapolis, FBI Special Agent Roy Noonan and another deputy U.S. marshal walked into an office building at 138 East Sixth St. in St. Paul--Minneapolis' "twin city," and the state capital of Minnesota.

Noonan lived in St. Paul and had been an FBI agent since February 1928. The SWP's local office was in Room 8. The office was closed and locked, and they searched for the building manager. He unlocked the office door and let them in. No one was there, but Noonan noticed right away a bookcase filled with literature.

"I believe the pamphlets were for sale. I did not ever buy any of them. I read only the titles of the pamphlets," he would later say.

Perrin, Noonan and their superiors did not have time to read the lengthy pamphlets to judge their "subversive" content. Federal prosecutors would do that later in preparation for the grand jury investigation. The titles and authors of the pamphlets were enough for a warrant. Back at their headquarters, Perrin filled out an affidavit and quickly obtained search warrants.

TWO ARMED raiding parties made up of FBI agents and U.S. marshals left the Department of Justice and drove to their respective destinations. The U.S. marshals led the raid on the St. Paul office where FBI Special Agent Roy Noonan assisted them. Perrin led the raid on the Minneapolis office, the more important of the two targets.

"No one attempted to interfere with our entrance. When we entered we first went to the book section of the headquarters. Mrs. Carlson came up to us and offered no objection to us," Perrin later said.

Perrin handed Carlson the search warrant. It said that the basis for the warrant were books by "Karl Marx, Lenin, Felix Morrow [the editor of the SWP's newspaper The Militant] and Leon Trotsky" that were on sale at the SWP bookstore.

After several hours of rummaging through the SWP's offices and bookstore, and boxing up hundreds of books, pamphlets and newspapers, the FBI and U.S. Marshals left with their truck fully loaded and returned to the Department of Justice--where their staff began the laborious task of cataloging their cache.

Among the many items seized were innocuous items, including a portrait of Leon Trotsky given to SWP and Teamster leader Vincent "Ray" Dunne after a meeting with Trotsky in Mexico. It was

inscribed, "Warmest greetings to Comrade V. R. Dunne, Leon Trotsky, Coyocan."

The following day, a Saturday--a day of the week when the SWP held their regular public forum and social gathering--Grace Carlson issued a statement to the press:

> We believe that the raid on our headquarters by the FBI was unwarranted. We shall move through the proper channels to recover our property. Meanwhile, we expect to have business go on as usual. A class will be held tonight at the Minneapolis headquarters to which the public is invited. The topic for discussion will be "The Revolutionary War of 1776."

The forum and social went on, despite the shambles that the FBI had left the office and bookstore in. "The SWP does not intend," Carlson defiantly declared to the press, "to be in the slightest intimidated by any governmental threats or prosecution."

NO ONE was arrested on the day of the raid, but it set off alarms bells for those concerned about the deteriorating situation of civil liberties in the United States as war raged across the globe.

The raids on the SWP in Minneapolis and St. Paul were the latest incidents in a crackdown on radicals and the labor movement. During the previous two years, the federal government had sponsored a short-lived "red scare" that served as a dress rehearsal for the post-Second World War anti-Communist witch-hunts.

A series of laws were passed, the most sinister being "The Alien Registration Act of 1940," popularly known as the Smith Act after its sponsor Congressman Howard W. Smith of Virginia, a southern Democrat and a leader of the "anti-labor" bloc in the House of Representatives.

The Smith Act became the legal weapon against critics of the government. President Franklin Roosevelt, considered by many to be the greatest liberal president of the 20th century, signed it into law.

It was the biggest legislative attack on free speech and thought in two decades by the federal government. The Smith Act made it a criminal offense to:

teach, advocate, or encourage the overthrow or destruction of any such government by force or violence; or becomes or is a member of, or affiliates with, any such society, group, or assembly of persons, knowing the purposes thereof - Shall be fined under this title or imprisoned not more than twenty years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction.

Such legislation was made possible by, among other things, the hysterical atmosphere in country that had been whipped up against "aliens" and "subversives" by Rep. Martin Dies, an ambitious Texas Democrat who hated the New Deal, immigrants, unions and the left.

Dies chaired the House Committee on Un-American Activities, better known by its mangled acronym HUAC, and he used it to great effect against his enemies. Under his inspiration, dozens of bills flooded Congress in early 1939 directed at immigrants and radicals. The American Civil Liberties Union (ACLU) was one of only three organizations, along with the American Federal of Labor (AFL) and the Congress of Industrial Organizations (CIO), to testify at hearings in the House of Representatives in April 1939 against the proposed "anti-radical" legislation.

Osmond K. Fraenkel, one of the best known and well-respected civil liberties attorneys in the United States, testified about the violations of free speech under the 1798 Sedition Act and during the First World War, but to no avail. No one was listening.

What became the Smith Act was signed into law in June 1940 and, according to the New York Times, brought together "most of the anti-alien and anti-radical legislation offered in Congress in the past twenty years."

The Communist Party, however, played an important role in fostering the anti-Communist hysteria. For most of the 1930s, Stalin's Russia--and the international communist movement that

followed Stalin's dictates--portrayed themselves as the most principled and determined opponents of fascism. Many liberals and progressives became apologists for Stalin's regime because of anti-fascist foreign policy.

All of this good will collapsed in August 1939, when Nazi Germany and Russia signed what was popularly known as the Hitler-Stalin Pact. The treaty shocked the world and realigned world politics overnight.

Upon signing it, Russian Foreign Minister Vyacheslav Molotov tried to reassure his newfound Nazi allies of his good intentions by telling the journalists present "fascism is a matter of taste." The treaty allowed Hitler and Stalin to carve up Poland, while Russia was also given a free hand to conquer the Baltic states of Estonia, Latvia, and Lithuania. Hitler was now free to wage war in the West. The American CP, led by Earl Browder, supported and defended Stalin's actions.

IN THE wake of the Hitler-Stalin pact, a great wave of anti-Communism, anti-Semitism and national chauvinism swept across the United States. Politicians and the media began to talk of a "Commu-Nazi" conspiracy against the United States. The far-right "Radio Priest" Charles Coughlin spewed anti-Semitic filth on the airwaves, and so-called Christian Fronters, inspired by his rhetoric, attacked Jews on the streets of New York City.

The ACLU even expelled from its leadership Elizabeth Gurley Flynn, one of the great heroes of the American left and a member of the American CP. It was the first time the organization had expelled someone from their leadership because of their political allegiances-- great blow to the prestige of the ACLU. It also did nothing, however, to put at bay its reactionary critics who continued to mercilessly accuse of it of being a "Communist front."

The German invasion of Russia on June 22, 1941, ended the alliance with Russia--and the CP reversed, overnight again, its policy giving unqualified support to the Roosevelt administration, and began pressing for the U.S. to enter the war against Germany. It was now

the most super-patriotic of organizations. Its great reversal also saved it from a looming showdown with the federal government.

The SWP now faced the full wrath of federal prosecutors. Henry A. Schweinhaut, an assistant attorney general, arrived in Minnesota to take charge of the prosecution of the SWP. He was there on the instructions of his boss, Francis Biddle, the acting attorney general of the United States.

Biddle came from a long line of American aristocrats who could trace their family history back before the founding of the country. He was a direct descendent of the United States' first attorney general, Edmund Randolph, and had been a life-long Republican from Philadelphia. His liberal sympathies deepened during the New Deal, specifically concerning workers' rights and civil liberties. He became a great partisan of Franklin Roosevelt and had also been a consulting attorney to the ACLU.

What motivated him to go after an organization of less than 600 people in the United Sates?

Biddle was not in a secure position in Washington, D.C. His predecessor, Robert Jackson, had been elevated to the Supreme Court. Biddle had stepped in as acting Attorney General, but it now appeared that Roosevelt was hesitant to nominate him for a full term.

Roosevelt, it seems, feared that Biddle would not be tough enough on "subversives." Why? Biddle, along with his two predecessors in the Attorney General's office, Frank Murphy and Robert Jackson, were part of a generation of liberal attorneys that were horrified by the federal government's persecution of dissidents during the First World War. They vowed to never repeat it.

However, they went from young attorneys from incredibly disparate backgrounds--Biddle the aristocrat, Jackson a small town lawyer from upstate New York, and Murphy the former Mayor of Detroit and Governor of Michigan--to the peak of their profession because of Franklin Roosevelt's political sponsorship.

Roosevelt wanted a crackdown on "subversives," and he wanted his attorney general and the Supreme Court to back him up. Despite his

great personal reservations about the constitutionality of the Smith Act, Biddle conceded to Roosevelt in the summer of 1940 that prosecutions could have a "salutary effect." A year later. he sent Henry Schweinhaut to Minneapolis to oversee the prosecution of the SWP.

THE SWP had all the "right" enemies in June 1941. In the past, their enemies had been kept off balance by the forward march of the labor movement, or by rivalries that had kept others from working in concert against the SWP. Now, that had all changed as the U.S. prepared to enter the war. "National security" became the mantra across the political spectrum and the government was able to count on a section of the labor leadership to support it.

While the federal government cracked down on the left and the labor movement, a big push for the prosecution of the SWP came from the FBI. The FBI had been focusing its attention on the SWP because of its leadership of Teamsters Local 544, the most important transportation local union in the upper Midwest. The SWP's militant and creative leadership of the local union, and its regional organizing, had brought hundreds of thousands of members into the Teamsters. But in the process, the union had earned the wrath of employers across the Midwest, and fell under the watchful eyes of the FBI.

In 1940, Hoover ordered the FBI regional office in St. Paul to recruit confidential informants in Local 544 to gather evidence of an alleged SWP plan to "obtain control of interstate trucking." Strikes in the defense industries across the country in 1941 gave a boost to Hoover's notorious hatred of the left and the labor movement, and he warned Roosevelt and his superiors that the SWP and the CP were in a position to attain "complete control of all labor in the state of Minnesota."

While much of this was a product of Hoover's feverish imagination, it did represent the thinking of the top levels of the U.S. government. FBI agents even began working with a right-wing caucus in inside Local 544, called the Committee of 100.

But the immediate spark for the prosecution came from Teamster President Dan Tobin, a close ally of Roosevelt's and the archconservative and authoritarian leader of the union. Tobin had long resented the revolutionary socialist militants in his union. He saw an opportunity to finally rid the union of them as the political atmosphere shifted sharply to the right.

On June 9, 1941, the SWP leadership of Teamsters Local 544, led by Kelly Postal, Ray Rainbolt and Ray Dunne proposed to the membership of the local that they disaffiliated from the Teamsters Union, and form a new a new trucking union that would be allied with the CIO--the militant union federation that came to represent the aspirations of millions of workers in the 1930s. By an overwhelming vote of its 4,000 members, the local voted to leave the Teamsters Union.

Tobin seemed impotent in the face of a membership revolt, and turned to Roosevelt for help. Four days later, on June 13, in an unprecedented public intervention in an internal union conflict, Stephen Early, Roosevelt's press secretary, speaking on behalf of the president, told the White House press corps:

Mr. Tobin telegraphed from Indianapolis [the Teamsters Union's headquarters] that it is apparent to him and to the other executives of his organization that because they have been and will continue to stand squarely behind the government, that all subversive organizations and all enemies of our government, including Bundists [German-American fascists], Trotskyists and Stalinists, are opposed to them and seeking to destroy loyal trade unions which are supporting democracy.

Mr. Tobin goes into considerable detail and states he is going to issue a statement from the Indianapolis office of the teamsters' union. When I advised the President of Tobin's representations this morning he asked me to immediately have the government departments and agencies interested in this matter notified and to point out to you that this is no time, in his opinion, for labor unions, local or national, to begin raiding one another for the purpose of getting memberships or for similar reasons.

Tobin's appeal was a long diatribe against his Minneapolis enemies and painted them as traitors who had to be swiftly dealt with. "We feel that while our country is in a dangerous position, those disturbers who believe in the policies of foreign, radical governments, or who are supporting the enemies of our government, must be in some way prevented from, pursuing this dangerous course," he said. Two weeks later, the FBI raided the SWP's offices in the Twin Cities.

ON JULY 1, the Department of Justice convened a grand jury to investigate the charges. Victor Anderson, the federal attorney for Minnesota, a long time nemesis of the SWP and Local 544 presented the government's case.

Anderson took nearly two weeks to present the evidence, including excerpts from SWP pamphlets, newspapers articles, speeches, and the testimony of government informers and union turncoats. By this point in time, it was rare that a federal grand jury didn't follow a prosecutor's lead. The grand jury of 20 men and three women were selected entirely from rural parts of Minnesota. "Not a single resident of Minneapolis is on it," *The Militant* pointed out.

Prosecutors were obviously hoping that the grand jurors would not have anyone on the jury who had any contact with the labor movement or radical politics of Minnesota. The ACLU, which had been smarting from its expulsion of Gurley Flynn the previous year, sent a telegram to Francis Biddle urging "reconsideration" of the investigation and terming it "obviously dangerous to the preservation of democracy."

Three weeks later, on July 15, 1941, an indictment was handed down by a federal grand jury in St. Paul against 29 men and women, including the national leaders of the SWP and 16 leaders and members of the Minneapolis Teamster Local 544. They were charged with violation of the Smith Act and the1861Federal Sedition Act, a law that had been designed to deal with the rebellion of Southern slave owners.

Biddle and the Roosevelt wanted the indictments and trial not to appear to be an attack on the labor movement, but the prominence

of the SWP in Teamsters Local 544 was hard to disguise. Some newspapers failed to stay "on message." The *St. Paul Dispatch*, for example, came out on June 28 came out with a bold print headline: "U.S. to Prosecute Local 544-CIO."

Biddle was forced to respond and tried to steer the purpose of the trial back to "subversion." Biddle pleaded, "The prosecution is not in any sense an attack on organized labor nor is it an effort to interfere in a dispute between labor organizations." Yet, he admitted:

> The principal Socialist Workers Party leaders against whom prosecution is being brought are also leaders of Local 544-CIO in Minneapolis. This prosecution is brought under the criminal code of the United States against persons who have been engaged in criminal seditious activities, and who are leaders of the Socialist Workers Party and hare gained control of a legitimate labor union to use it for illegitimate purposes.

The FBI's assault upon the SWP and Teamsters Local 544 produced an immediate and angry response from the leadership of the CIO. Frank Barnhart, regional director of the United Construction Workers Organizing Committee, in Minnesota, charged, "Unable to bend the workers to his will by the other vicious tactics which he has employed, Dan Tobin has persuaded Roosevelt to carry out this action in payment of his political debt to Tobin for past services rendered. It is deplorable that the functions of the U.S. Department of Justice have been perverted in this reprehensible manner."

On August 11, 1941, a month after the indictments were issued, all 29 defendants including the party's national secretary, James P. Cannon, and its attorney, Albert Goldman, appeared in federal court in Minneapolis before Judge Robert C. Bell. They pled not guilty and bail was quickly arranged.

The stage was set for the most important federal sedition trial since end of the First World War.

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